

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.51 OF 2021

Mr. Viplav Prabhugaonkar,
Age 28 years,
S/o. late Srikant Prabhugaonkar,
R/o. 1/A, HS-15, "Shivam",
Sonipaul Co-operative Housing Society,
Pali, Dicarpali, Salcete,
Margao – Goa.

...Petitioner

Versus

1. State of Goa,
Through Public Prosecutor,
High Court, Altinho, Panaji, Goa.

2. The Police Inspector,
Maina – Curtorim Police Station,
Margao – Goa.

3. Smt. Ratna @ Sneha Bale,
W/o. Jairam Bale, Age 41 years,
R/o. AS1, HSL, Sonipaul
Co-operative Housing Society,
Dicarpali, Salcete, Margao – Goa.

...Respondents

Mr. Shailesh Redkar, *Advocate for the Petitioner.*
Mr. S.G. Bhobe, *Public Prosecutor for Respondent Nos.1 & 2.*
Mr. Jatin Ramaiya, *Advocate for Respondent No.3.*

**CORAM: M. S. SONAK &
R. N. LADDHA, JJ.**

DATED: 28th February 2022

ORAL JUDGMENT : (Per M.S. Sonak, J.)

1. Heard Mr. Shailesh Redkar, learned Counsel for the petitioner, Mr. S.G. Bhobe, learned Public Prosecutor for respondent nos.1 & 2 and Mr. Jatin Ramaiya, learned Counsel for respondent no.3.

2. Rule. The rule is made returnable forthwith at the request of and with the consent of the learned Counsel for the parties. Learned Counsel for the respondents waive service.

3. This is a petition for quashing of FIR No.8/2021 dated 26.01.2021 registered by the Maina-Curtorim Police Station alleging commission of offences under Section 504 and 509 of IPC by respondent no.3.

4. On notice, the respondent no.3 has filed an affidavit in reply in this matter. Paragraphs 1 to 6 of this affidavit read thus:

“1. I say that I am the respondent no. 3 in the present criminal writ petition and the original complaint dated 25.01.2021, filed against the petitioner herein. I say that based upon my complaint the Maina Curtorim Police registered an FIR No.8/2021 dated 26/01/2021 registered by the Maina Curtorim Police Station under Sections 504 and 509 of the Indian Penal Code against the petitioner.

2. *I say that the FIR was filed based upon some miscommunication and misunderstanding between the petitioner and myself, I say that on the relevant date the petitioner did not remove his car inspite of all the society member requesting him.*

3. *I say that now the petitioner and my self has resolved all the dispute among our self and there is no dispute between ourselves remained to be resolved, I say that petitioner being our neighbour in the society I do not wish to proceed against him, and I say that I wish to withdraw the complaint filed against the petitioner. I say that I also do not wish to file any reply to the present petition filed herein.*

4. *I say that I do not have any objection if this Hon'ble Court allow the present petition and quashed the FIR No.8/2021 dated 26/01/2021 registered by the Maina Curtorim Police Station under Sections 504 and 509 of the Indian Penal Code; filed against the petitioner.*

5. *I say that I am swearing the present affidavit without any coercion, threat, undue influence, or pressure from anyone including the petitioner. I say that for peace and harmony in the society I am ready to withdraw the allegation made against the petitioner herein.*

6. *I say that the content of the above para 1 to 5 are true, to my knowledge.”*

5. Having regard to the nature of offences alleged, the affidavit filed by respondent no.3 and the law laid down by the Hon'ble Supreme Court in *Gian Singh V/s. State of Punjab*¹, we see no difficulty in quashing the impugned FIR, in the interest of justice.

6. Accordingly, we quash the impugned FIR No.8/2021 dated 26.01.2021 registered by the Maina Curtorim Police Station, subject to the petitioner paying costs of ₹5,000/- to the Goa High Court Bar Association. Proof of payment/receipt will have to be produced on record within one week.

7. The rule is accordingly made absolute in terms of prayer clause "a" of this petition.

R. N. LADDHA, J.

M. S. SONAK, J.

¹ (2012) 10 SCC 303